# RIGHT OF WAY

## PRIMARY ROLES & RESPONSIBILITIES

<table>
<thead>
<tr>
<th>PRIMARY TASK</th>
<th>ODOT (REA unless otherwise noted)</th>
<th>LPA</th>
</tr>
</thead>
<tbody>
<tr>
<td>EXECUTE LPA PROJECT AGREEMENT</td>
<td>LPA Manager; REA may require Real Estate Checklist to be signed off at this time</td>
<td></td>
</tr>
<tr>
<td>RIGHT OF WAY PLAN DEVELOPMENT &amp; UTILITY COORDINATION</td>
<td>Utility Coordinator for support &amp; monitoring</td>
<td>X</td>
</tr>
<tr>
<td>IF FEDERAL FUNDS IN R/W &amp;/OR UTILITIES, ESTABLISH ENVIRONMENTAL CLEARANCE</td>
<td>X Verify clearance with DEC</td>
<td></td>
</tr>
<tr>
<td>IF FEDERAL FUNDS, RIGHT OF WAY ACQUISITION &amp;/OR UTILITY RELOCATION AUTHORIZATION (See flow chart for task order process.)</td>
<td></td>
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<tr>
<td>• With the final R/W plans, LPA submits a letter to REA requesting authority</td>
<td></td>
<td>X</td>
</tr>
<tr>
<td>• Authorization request made to ODOT CO</td>
<td>X REA</td>
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<tr>
<td>• Authorization letter sent to LPA</td>
<td>X REA</td>
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<tr>
<td>RIGHT OF WAY ACQUISITION</td>
<td>REA monitors activity</td>
<td>X</td>
</tr>
<tr>
<td>• Provision of project status reports on monthly basis or as otherwise required by ODOT</td>
<td>X</td>
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Revision 11/27/2017
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<tr>
<th>PRIMARY TASK (continued)</th>
<th>ODOT</th>
<th>LPA</th>
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<tbody>
<tr>
<td>IF FEDERAL FUNDS, SEEK REIMBURSEMENT</td>
<td></td>
<td>X</td>
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<tr>
<td>• Letter sent to REA seeking reimbursement accompanied by Certified Tabulation of R/W expenditures, Certificate of R/W costs and Parcel Ledger Sheet.</td>
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<tr>
<td>• Request processed for check issuance</td>
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<td>X</td>
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<tr>
<td>RIGHT OF WAY CERTIFICATION</td>
<td></td>
<td>X</td>
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<tr>
<td>• LPA certification to ODOT 30 days prior to ODOT certification commitment date; to include acquisition files, utility 4a note, exhibit “B” and status of encroachments</td>
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</tr>
<tr>
<td>• ODOT checks files for compliance and certification letter; Ellis update</td>
<td></td>
<td>X</td>
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<tr>
<td>FILE CLOSE OUT</td>
<td>X</td>
<td>X</td>
</tr>
<tr>
<td>(General files for retention)</td>
<td>(Acquisition &amp; utility files for retention)</td>
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RIGHT OF WAY

INTRODUCTION

“Right of Way” refers to the real property rights which the LPAs must possess to construct locally administered transportation projects utilizing Federal funds. The intent of this chapter is to provide the LPAs with the basic understanding of the right of way process for locally administrated Federal-aid transportation projects. The LPAs who will be actively involved in right of way acquisition and relocation must comply with the “Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970,” as amended. The Uniform Act must be followed for all locally administered Federal-aid projects even if Federal funds are not used for the acquisition of right of way for the project.

Additionally, it is imperative that ORC 163.51 to 163.62 and OAC 5501.2-5-01 to 06 be followed. Any agency or person with the authority to acquire property by eminent domain under State law must follow these provisions. ORC 163.58 establishes a lead agency to develop rules for implementation of these provisions. The Ohio Department of Transportation has been designated as the lead agency. Accordingly, ODOT’s Office of Real Estate has published a Policies and Procedures Manual, which implements all applicable laws and regulations.

Both State and Federal laws and regulations apply whenever private property is acquired or property displacements occur. Affected property owners and those displaced by the project are entitled to be treated in ways that provide for due process of law and which ensure they are justly compensated for losses they experience as provided by the 5th Amendment of the United States Constitution. It should be noted that property owners could be affected for the rest of their lives by the appraisal, acquisition process and/or compensation. Fair Market Value Estimate (FMVE) is the measure of just compensation. Being sensitive, proactive, and lawful can prevent lawsuits and project delays before they occur.

These laws and regulations ensure that Federal funds are not unnecessarily or inappropriately expended as well as aid in the protection of the property owner rights.

The LPAs must also comply with all requirements of Title VI of the 1964 Civil Rights Act on Federal-aid projects. This ensures all services and/or benefits derived from any right of way activity will be administered without regard to race, religion, color, sex, national origin, ancestry, age, or disability.

Under Section 302 of Title 23 USC, when Federal funding is used in any phase of a locally administered project, the FHWA places overall responsibility for the acquisition of right of way and the relocation of individuals, businesses and utilities with ODOT. As part of the overall responsibility assigned to ODOT by FHWA, the ODOT District Real Estate Administer (REA) is
required to monitor the LPA right of way appraisal, acquisition and relocation activities on all locally administered projects for compliance with applicable laws and regulations. This does not exempt the responsibility of the LPA from following all laws and regulations.

PROJECT PROGRAMMING

The initial step in obtaining Federal-aid on a locally administered project involves programming the project into the Federally approved State Transportation Improvement Program (STIP/TIP). After the project is on the STIP/TIP, the LPA should contact the ODOT District LPA Manager to obtain authorization to receive Federal funds. The authorization must precede any activities for which reimbursement will be requested. This includes any utility relocation costs.

Real property rights acquired for the LPA project must be sufficient for all activities necessary for the construction of the project and for the ongoing operation and maintenance of the facility when completed. It is the responsibility of the LPA to determine the property rights that will be necessary for each project and that these rights are sufficient for the project.

Due to a conflict between Federal and State law, Federal funds may not participate in the acquisition of Highway Easements. This does not preclude the LPA from purchasing such easements with their own funding. It also does not preclude Federal funding used in the purchase of other easement interests such as slope easements, channel easements, sewer easements, or temporary easements.

Generally, property rights are acquired and/or obtained through the following instrument types:

- Warranty Deed with Limitation of Access (in Fee, without the right of access): The acquisition of all property rights and prohibits access to the highway from the abutting property.

- Warranty Deed (in Fee, with the right of access): The acquisition of all property rights that reserves highway access.

- Permanent or Perpetual Easement: The acquisitions of certain specific property rights, with all remaining rights being reserved to the owner. Typically used when the agency determines the property is needed for only a limited purpose (i.e., sewer, slope, or channel easement).

- Temporary Easement: The acquisition of some or all property rights for a limited period of time. Typical uses include temporary detours, building demolitions, work/storage/staging areas needed during construction, or construction work ancillary to a project that does not require ongoing maintenance beyond completion of the project. It is important to understand that once the construction project is completed or the temporary easement expires, the agency has no right to re-enter the property without first acquiring additional rights.
• Work Agreement (by Permit or Release): An agreement for the use and occupancy of property by permission of the owner. Obtained when agency’s use of the property is temporary and the work to be performed is solely for the benefit of the property owner and is not essential to the project (i.e., minor grading, landscaping, re-connection of utilities, etc.). This type of acquisition is voluntary and if the owner is not willing to sign the agreement, the work will not be performed. For these reasons, this type of acquisition is not obtainable through the use of Eminent Domain.

MONITORING PROCESS

When existing and acquired right of way is required for a transportation improvement project using Federal or State funds, the LPA must certify that the right of way was acquired in conformity with Federal and State laws, regulations, policies and the ODOT Real Estate Policies and Procedures Manual. If the LPA does not have the qualified staff to perform any or all of the respective right of way functions, the LPA must hire an ODOT Pre-qualified Consultant. The pre-qualified list is available on the ODOT web page at: http://www.dot.state.oh.us/Divisions/Engineering/Consultant/Consultant/prequal-row.pdf

If the LPA hires a Pre-qualified Consultant, the LPA has the responsibility to monitor the Consultant and his/her activities. The LPA must be kept informed during all phases of the right of way process. It is the LPA’s responsibility to ensure that the Consultant is following all Federal and State laws, regulations, policies, and the ODOT Real Estate Policies and Procedures Manual.

A Consultant hired to perform right of way acquisition work for a Federal-aid project cannot perform both the appraisal and appraisal review functions. Similarly, they may not hire a sub-consultant for appraisal and another sub-consultant for appraisal review. Appraisal review is to be performed by an independent staff or fee reviewer. These independent reviewers must be hired directly by the LPA. Also, a consultant hired to perform right of way acquisition work for a Federal-aid project cannot perform both the relocation and relocation review functions. Similarly, they may not hire a sub-consultant for relocation and another sub-consultant for relocation review. Relocation review is to be performed by an independent staff or fee reviewer. These independent reviewers must be hired directly by the LPA.

ODOT must certify to FHWA that acquired and existing right of way for the project was conducted in conformity with approved procedures. At any time, ODOT shall be allowed to monitor any and all activities of the right of way phase.
PUBLIC INVOLVEMENT

Public involvement is advantageous because it can broaden the LPA’s knowledge of the project area. If a public meeting or hearing is to be held and additional right of way or property rights will be required for the project, right of way personnel should be involved as early as possible. A public forum offers an excellent opportunity to discuss the acquisition and relocation impacts with the affected persons. The importance of explaining these projects within the context of a public hearing cannot be overstated. One of the most difficult aspects of any project is the displacement of people and/or personal property. Property owners rarely see the importance of a project when balanced against their own needs and desires. Often the project simply means the disruption of their lives and lifestyle or the need to relocate and reestablish their residence or business in a new area. As a result, those directly affected are sometimes hostile and unwilling to reach any agreement on an amicable basis.

The public meeting or hearing is often their first real opportunity for information and contact with the project sponsor. One of the keys to a successful project may be the cooperation initiated at the first public hearing. As the project progresses, there may be a need for additional hearings devoted solely to right of way issues and impacts.

RIGHT OF WAY COST ESTIMATE

If property rights are necessary, the next phase in the project development is the completion of the Right of Way Estimate. The estimate is of primary importance in the cost efficient delivery of the project. This process and subsequent document provide a detailed analysis of the following:

• Type of properties to be acquired;

• The number of the parcels;
• If displacement is to occur, what is the nature (e.g., residential, commercial, farm, etc.), how many are affected and what is the projected timing; and
• How much time and what personnel are needed to appraise and acquire the right of way and perform any necessary relocation work, including utilities.

• The Estimate should include:

• The Fair Market Value Estimate (FMVE) of the properties to be acquired;
• The anticipated relocation assistance payments; and
• The cost to perform all right of way related work.
An accurate estimate of right of way costs based on current market data is essential for forecasting capital expenditures and future staffing needs. For example, overestimating may result in deferring, down-scoping, or eliminating a project; underestimating could affect the financial ability to build the project or result in inadequate staffing. Subject to personnel availability, the REA may assist the LPA in preparing and reviewing the estimate documents.

RIGHT OF WAY AUTHORIZATION

When Federal funds are to be used for right of way costs, a Right of Way Cost Estimate must be completed before requesting federal authorization. When Federal-aid is sought for any phase of the project, all right of way activities should conform to the Federal requirements. Failure to conform to these requirements will jeopardize Federal funding. Any right of way activities performed prior to authorization are ineligible for reimbursement. Requests for federal authorization should be submitted to the District LPA Manager.

RELOCATION PLANNING

When projects involve displacement, the successful resolution of the displacees’ needs requires careful planning. A Relocation Pre-acquisition Report is required. Housing resources must meet the basic needs of the displaced persons in terms of size, price, location and timely availability. Advisory services and various notices to vacate a displaced person must be provided. Every reasonable means of accommodation to a displaced person should be undertaken. Businesses must be given assistance in relocating with a minimum of disruption during the move. Payments must be calculated and made to displaced persons at the time they are needed during the move to the new location. All of these things require planning and vigilance on behalf of the LPA.

If there is to be displacement, planning for the relocation should begin with the LPA’s Right of Way staff or consultants. The earlier relocation requirements are identified, the easier it will be to minimize adverse impacts on the displacees. The information obtained in the Relocation Pre-acquisition Report and public involvement process will form the basis for the actions which must subsequently be taken during the actual relocation of the property owners.

APPRAISALS

Prepare Final Right of Way Requirements/Maps

Before beginning appraisal activities, the appraiser needs at a minimum, a final right of way plan. In order to complete an appraisal assignment, appraisers need the final right of way plan and the property description that includes the area and dimensions of the taking. They also need the area and dimensions of the remainder parcel, access, and the relationship of the taking to any structures and/or land improvements on the property. Construction plans that show slope, drainage, etc. are required for appraisal and appraisal review.
Determine Fair Market Value

Prior to commencing appraisal work on parcels required for the project, the appraiser must give the owner or the owner’s representative an opportunity to accompany the appraiser on the inspection of the property. The appraiser must give reasonable notice of the proposed inspection to allow the owner or owner’s representative to attend.

All owners of any interest must be given the opportunity to accompany the appraiser. This includes tenant owners of buildings, structures, and improvements upon the property to be acquired. Extend the opportunity to accompany the appraiser to the owner(s), after which the owner(s) designate a representative, if they so desire.

In some instances, it is advised but not required, that written notice be given by certified mail, return receipt to each owner, to protect the appraiser and the LPA. The owner should also be given a written explanation of the LPA’s land acquisition procedure.

Sections 163.59(D) of the ORC requires that all real property be appraised before the initiation of negotiations. The acquiring agency shall establish the amount believed to be “Just Compensation”. Per 49 CFR 24.102 (d), “Just Compensation” shall not be less than the approved appraisal of fair market value of the property.

The FMVE which is established shall be the offer made to the owner(s) of the real property to be acquired and is a commitment of public funds. The establishment of the FMVE is a three-step process.

1. The appraiser signs his/her report for the value estimate.

2. The reviewer’s signature signifies accepting or recommending the estimate.

3. The LPA representative signifies the FMVE. The LPA representative has to be someone of authority within the LPA.

All three signatures have to be independent of one another.

ACQUISITIONS

The Uniform Act contains basic requirements for the acquisition of real property which apply to all locally administrated projects. For additional details, refer to 49 CFR Part 24, the FHWA Realty Project Development Guide, and the ODOT Real Estate Policies and Procedures Manual at the links listed below.
Before the first written offer to acquire the property, the LPA will personally contact the displacees to gather important information, including the following:

- Preferences in area of relocation;
- Number of people to be displaced and the distribution of adults and children according to age and sex;
- Location of school and employment;
- Specific arrangements needed to accommodate any family members with special needs; and
- Lawful U.S. residency status.

Prior to initiating negotiations for the acquisition of real property, the LPA must establish an amount it believes to be just compensation (FMVE) and must make a written offer to the owner(s) to acquire the property for the amount so established. The LPA should make every effort to acquire the property by negotiation. Any increase or decrease in the value of the property to be acquired prior to the date of valuation caused by the transportation project shall be disregarded in determining the compensation for the property. The LPA shall provide the owner(s) with a written statement explaining the basis for the amount it establishes as just compensation.

The Uniform Act requirements, in general, are as follows:

- A written appraisal establishing just compensation must be approved prior to the start of negotiations;
- The written offer must be made promptly in the full amount of the appraisal and contain a summary for its basis;
- A 90-day notice must be given to all lawful occupants; and
- A written diary must be maintained.

Acquisition payments and/or condemnation deposits must be made prior to Federal authorization.
RELOCATION ASSISTANCE

The Uniform Act also contains basic requirements when displacement occurs as a result of the transportation project. These requirements are found in 49 CFR 24 Subparts C, D and E. The relocation procedures are also discussed in detail in the FHWA Realty Project Development Guide and the ODOT Real Estate Policies and Procedures Manual.

The purpose of the Uniform Act is to assure fair and equitable treatment of displaced persons so that such persons do not suffer disproportionate injury from projects designed to benefit the public as a whole. It is important to understand that successful relocation is essential not only to those displaced, but to the progress of the entire highway project.

While the LPA needs information about any displacement which will occur because of the project, the displaced persons have an equal or greater need for information about the benefits, the eligibility requirements to obtain these benefits, and the appeal process in the event these benefits are denied. FHWA has prepared a brochure entitled *Your Rights and Benefits as a Displaced Person*. The brochure explains these matters and is intended to be used by relocation agents and at public hearings. This publication, as well as other FHWA publications, is available on their internet site at [http://www.fhwa.dot.gov/realestate/relocat.htm](http://www.fhwa.dot.gov/realestate/relocat.htm).

General Requirements

The relocation activities should be coordinated with both the appraisal and acquisition functions. It is crucial to ensure that:

- Timely calls are made;
- Proper entitlements and advisory services are provided;
- Relocation assistance payments are timely and properly calculated;
- The appeal process is communicated to the displacees;
- Diaries are maintained; and
- All notices (Eligibility, Vacating, Entitlement, etc.) are delivered to the displacees.

The following explanation is general in nature and is not intended to be a complete statement of Federal and State relocation laws and regulations. Any questions concerning relocation should be addressed to the REA.
Any persons to be displaced should be assigned to a relocation advisor, who will work closely with each displacee in order to see that all payments and benefits are fully utilized, and that all regulations are observed, thereby avoiding the possibility of displacees jeopardizing or forfeiting any of their benefits or payments.

At the time of the first written offer to purchase, owner/occupants are given a detailed explanation of the relocation services available to them in addition to the supplemental housing offer. Tenant occupants of properties to be acquired are contacted soon after the first written offer to purchase, and also are given the supplemental relocation offer and a detailed explanation of the Relocation Program. To avoid loss of possible benefits, no individual, family, business, farm, or nonprofit organization should commit to purchase or rent a replacement property without first contacting a relocation advisor.

**Advisory Services**

In accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, the LPA of the project will provide relocation advisory assistance to any person, business, farm, or nonprofit organization, displaced as a result of the acquisition of real property for a Federal-aid transportation project. The LPA will assist displacees in obtaining comparable replacement housing by providing current and continuing information on the availability and prices of both houses for sale and rental units that are “decent, safe and sanitary”.

Residential replacement dwellings will be in equal or better neighborhoods at rents or prices within the financial ability of the individuals and families displaced, and reasonably accessible to their places of employment.

Before any displacement occurs, comparable replacement dwellings which are open to all persons regardless of race, religion, color, sex, national origin, ancestry, age or disability and consistent with the requirements of Title VI of the Civil Rights Act of 1964 will be offered to the displacees. This assistance will also include the supplying of information concerning Federal and State assisted housing programs, and any other known services being offered by public and private agencies in the area.

Persons who are eligible for relocation payments and who are legally occupying the property required for the project will not be required to move without first being given at least 90 days written notice.

Residential occupants eligible for relocation payment(s) will not be required to move unless at least one comparable “decent, safe, and sanitary” replacement residence, available on the market, is offered to them by the LPA.
Nonresidential displacees should receive information on properties for lease or purchase.

For additional information on relocation, please refer to the ODOT Real Estate Policies and Procedures Manual.

**PROPERTY MANAGEMENT**

FHWA regulations for the property management function are found in 23 CFR Part 710. These regulations apply to all real property acquired by LPAs in connection with projects where Federal funds participate in any right of way costs for the project. Federal funds could participate in the costs incurred in leasing, rental, maintenance, the disposal of improvements and the clearance of the property. Federal funds can also participate in the demolition of improvements, the elimination of pests, the removal of hazardous materials, and other work necessary to clear structures from the project area.

The LPA is responsible for the preservation of the improvements and for reasonable safety measures when it has acquired ownership and possession of the property. Acquired right of way must be maintained in a manner which will prevent, minimize, or correct problems such as illegal dumping or disposal of rubble, debris, etc. on cleared right of way until needed for construction. For additional information on property management, please refer to the ODOT Real Estate Policies and Procedures Manual.

**RIGHT OF WAY CERTIFICATION**

A Right of Way Certification Letter must be completed for each project. This also applies even if no right of way is required for the project. The Right of Way Certification Letter is to be completed prior to, and as a condition of, receiving federal authorization to proceed to advertise the project for sale. The LPA completes such a letter for submission to the ODOT District REA who, in turn, certifies the Right of Way by letter to FHWA and ODOT Central Office.

The Right of Way Certification Letter is completed and required as part of the Plan, Specification & Estimate (PS&E) approval process. The certification attests to the five (5) following conditions:

1. The right of way required for the project, including both the existing right of way and any required property acquisitions, is cleared and available to the contractor for construction of the project.

2. The status of arrangements for the adjustment and relocation of utilities should be noted on page 4A (See Utilities Chapter).
3. If relocations are required,
   A. benefits have been extended,
   B. relocations have commenced (for residential relocations this include referral of replacement housing), and
   C. dates of availability of any properties projected to be available beyond scheduled project award have been determined for inclusion in a special note in the project proposal.

4. If projections of properties are required, it has been determined that it is in the public interest to proceed with the scheduled letting and award (including justification for proceeding to construction).

5. The actions taken to acquire property and/or clear the right of way have been conducted in accordance with applicable State and/or Federal statutes, rules, regulations, etc.

**Status Of Required Right of Way**

All property rights required for a project must be included in the Right of Way Certification Letter. This includes any interests in real property that lie outside of the existing right of way boundary lines acquired by deed or condemnation. It also includes temporary interests such as: rights of entry, construction or access easements, permits to enter during construction, licenses, etc. It is important to include the expiration date of any temporary rights in the certification, so they may be evaluated for the contractors construction schedule.

**Rights of Entry**

A Right of Entry allows the LPA representative to enter someone else’s property for a specific purpose at a specified time. Obtaining a Right of Entry can require that the LPA pay just compensation for the limited property right. A Right of Entry is limited in scope and does not replace the property acquisition. It can, however, be used to certify control of the right of way for the project.

When attempting to utilize a Right of Entry, the property owner must be informed that their cooperation is voluntary. They must also be informed that they are otherwise entitled to payment prior to surrendering possession. The Right of Entry may not be utilized on acquisitions involving relocations or impact improvements of a significant nature.

With the owner's advanced permission, the LPA may enter upon the property owner's land by using a Right of Entry Contract in cases of an emergency such as a natural disaster or emergency repairs, or where a delay in possession may constitute a substantial danger to the health or safety
of the public, or to "conditional clear" a parcel on a project in exceptional cases such as lead time conflict. It is used only in extraordinary circumstances and can never be used for the sole reason of meeting the scheduled certification. FHWA discourages the over use of the Right of Entry and it should only be used in limited situations. The LPA should contact the REA to ensure the intended use of the Right of Entry will not violate Federal/State law nor jeopardize the project’s Federal funding.

Status of Access Control

Access to the project must be adequate to meet the needs of the contractor during construction. At the same time, access rights for persons whose property abuts the project boundaries cannot be denied or unreasonably restricted unless alternate access is available during construction. If no access can be provided, a defacto taking occurs and the owner is entitled to just compensation.

FEDERAL POLICIES SPECIFICALLY RELATED TO THE REIMBURSEMENT OF RIGHT OF WAY COSTS

Acquisitions

The eligibility of right of way acquisition costs are generally determined by the limits of the right of way. In general, costs for parcels inside the right of way are eligible, those outside are ineligible. However, there are some exceptions to the basic rule that must be dealt with on an individual basis (e.g., an improvement which needs to be removed would be eligible for reimbursement).

The following are current Federal policies that are to be used for claiming right of way costs for Federal Reimbursement:

1. Acquisitions

Federal participation in right of way costs require prior federal authorization which is coordinated through ODOT. The first authorization is for Environmental Engineering. This Federal Authorization allows for the environmental, design stages 1 and 2, and right of way activities up to making an offer to be performed (This authorization does not allow the LPA to make an offer). Concurrence has been granted from FHWA that any project authorized for environmental at this time can perform all of these functions and does not require modification. This is obtained early in the project development process and provides for the reimbursement of initial right of way activities up to, but not including, making offers to property owners, taking title to properties, or extending relocation benefits to displacees. Incidental authorization includes such activities as preparing cost estimates, conducting site inspections and investigations, preparing title information, preparing appraisals, and completing relocation planning.

Revision 11/27/2017
The second authorization is for Right of Way Final Acquisition. Acquisition authorization provides for the actual acquisition of properties and the completion of relocations.

Three criteria are required to obtain this authorization:

1. The environmental determination for the selected project design is complete;
2. Completion of the right of way plan and a legal description; and
3. When relocations are required, the completion of the pre-acquisition survey.

2. Acquisition Of Uneconomic Remnants

If prior FHWA approval has been secured, Federal funds can participate in the acquisition costs of uneconomic remnants.

3. Acquisition Of Property Specifically For Exchange

Acquisition of property specifically for exchange occurs where the LPA agrees to obtain property for the grantor in exchange for the required right of way. This occurs primarily in connection with public utilities or public agencies where substitute property is acquired by the LPA to replace property required for the project. Both properties must be appraised. The costs of such acquisition are chargeable directly to the Right of Way Capital Outlay expenditure authorization. This type of acquisition is treated as acquisition of replacement property. Without prior Federal approval, reimbursement cannot be obtained.

Functional Replacement

This involves the replacement of real property in public ownership, either lands or facilities, or both, acquired for a highway project with other lands or facilities which will provide equivalent utility. FHWA has specific procedures which must be followed and requirements which must be met if the costs for a functional replacement property are to be reimbursed. These procedures are discussed in detail in 23 CFR 712.604, 605 and 606.

Personal Property

Generally, costs for the purchase of personal property are ineligible for Federal reimbursement.

Rental Income And Expense And Disposition Of Improvements

Vacated or improved land, acquired prior to actual need for highway construction may be available for rent. FHWA participates in rental income and property management expenses if the property was acquired with Federal funds.
Rental account records must be maintained to record income and direct expenses identifiable to a parcel. Eligible property management costs include costs such as repairs to a rental unit, advertising, etc. The LPA should separate costs incurred to collect rent on a parcel by parcel basis, then offset the costs against the actual rent collected.

Accounting records must be maintained for the disposition of improvements. Net income from the sale of improvements, except those on excess land, is shown as a credit to the project. Cost of the sale improvements within the right of way is considered an expense that is a debit item and may be applied to gross sales proceeds. These credits must be given to the acquisition phase and not the rental phase.

All activities described in this chapter, Must follow the ODOT Office of Real Estates Policies and Procedures Manual. This manual can be found at the link listed below.  
http://www.dot.state.oh.us/Divisions/Engineering/RealEstate/Pages/Manuals.aspx

Additionally, the ODOT Office of Real Estate also maintains a comprehensive list of forms for the use by LPA’s. These forms may be accessed at the following location:  
http://www.dot.state.oh.us/Divisions/Engineering/RealEstate/Real%20Estate%20Forms/Forms/AllItems.aspx

REFERENCES

23 Code of Federal Regulations

49 Code of Federal Regulations

Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 and Amendments (The Uniform Act)

Title VI of the 1964 Civil Rights Act

ODOT Real Estate Policies and Procedures Manual

ODOT Policy 25-001(P)

U.S. Public Laws 94-646, 100-17,

Ohio Revised Code 163.51 to 163.60

Ohio Administrative Code 5501:2-5-01 to 06

42 U. S. Code 4801 et. Seq.
APPENDIX

Right of Way Definitions

Task List Roles

Task List Definitions

Acquisition Checklist

Right of Way Plan Checklist

LPA Letter to District for Right of Way Certification

Federal Authorization Request Form

Federal Authorization Request Form Instructions

Task Order Process for County Engineer Projects